

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
Termination of Certain Proceedings as Dormant) CG Docket No. 20-158

ORDER

Adopted: October 6, 2021

Released: October 6, 2021

By the Chiefs, Consumer & Governmental Affairs Bureau and Media Bureau:

I. INTRODUCTION

1. In this Order, the Consumer and Governmental Affairs Bureau (Bureau or CGB) and the Media Bureau dismiss as moot a petition filed by KSQA, LLC (KSQA) seeking reconsideration of the Bureau’s decision in the *Eighth Dormant Proceedings Termination Order* to terminate MB Docket No. 15-11.

2. Nearly a decade ago, the Commission adopted the dormant dockets termination process to efficiently manage its proceedings.¹ The process outlines procedures whereby CGB may terminate dockets subject to a specified notice and comment procedure.² In identifying which proceedings may be terminated, the Commission found that, “. . . dockets in which no pleadings or other documents have been filed for several years” would be eligible for termination.³ In the instant case, pursuant to its authority, the Bureau announced its intention to terminate MB Docket No. 15-11, a docket in which no party had filed any pleadings since 2015. Because no party raised an objection to its termination, the Bureau terminated the docket on September 28, 2020. KSQA filed a petition for reconsideration of this determination, arguing that it was not aware of the Bureau’s intent to terminate the docket and that the docket should not be closed. We dismiss the petition as moot.

II. BACKGROUND

3. On February 4, 2011, the Commission released a Report and Order that, *inter alia*, amended Section 0.141 of the Commission’s organizational rules to delegate authority to the Consumer and Governmental Affairs Bureau Chief to conduct a periodic review of all open dockets with the objective of terminating those that were inactive.⁴ The Commission stated that termination of such proceedings also would include the dismissal as moot of any pending petition, motion, or other request for relief in the terminated proceeding that was procedural in nature or otherwise did not address the merits of the proceeding.⁵

4. On June 2, 2020, CGB released the *Eighth Dormant Proceedings Termination Public*

¹ *Amendment of Certain of the Commission’s Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Organization*, CG Docket No. 10-44, Report and Order, 26 FCC Rcd 1594 (2011) (*Procedure Order*).

² *Id.* at 1604, para. 23.

³ *Id.*

⁴ *Id.* See also 47 CFR 0.141(h).

⁵ *Id.* at 1604, para. 24.

Notice, with comments and reply comments due 30 and 45 days after date of publication in the Federal Register.⁶ Among the designated dockets to be terminated was MB Docket No. 15-11.⁷ On July 6, 2020, the Federal Register published the *Eighth Dormant Proceedings Termination Public Notice*.⁸ As a result, comments were due on August 5, 2020 and reply commenters were due on August 20, 2020.⁹ In response to the *Eighth Dormant Proceedings Termination Public Notice*, we received six Oppositions and one comment. KSQA did not object to the dismissal of MB Docket No. 15-11, nor did any other party. As a result, in the *Eighth Dormant Proceedings Termination Order*, we terminated as dormant MB Docket No. 15-11.¹⁰ The *Eighth Dormant Proceedings Termination Order* was published in the Federal Register on October 27, 2020.¹¹

5. On November 19, 2020, KSQA filed a revised petition for reconsideration (Petition) seeking to reopen MB Docket No. 15-11.¹² In its Petition, KSQA argues that it was not provided proper notice of the pending termination and that the proceeding involves an active dispute and should not have been terminated as dormant. We received one opposition to the Petition, filed by DIRECTV, LLC (DIRECTV).¹³ KSQA responded to DIRECTV's opposition on December 15.¹⁴

III. DISCUSSION

A. KSQA's Petition for Reconsideration is Procedurally Improper

6. We dismiss KSQA's petition for reconsideration as moot. Pursuant to section 1.429 of the Commission's rules, parties may petition for reconsideration of final orders in a rulemaking proceeding.¹⁵ However, the Bureau may dismiss petitions for reconsideration that "plainly do not warrant consideration by the Commission."¹⁶

7. Because the underlying complaint at issue in KSQA's petition for reconsideration pertained to the 2015-2017 election cycle for satellite carriage of television stations and this election cycle has now passed, this is no longer a live controversy.¹⁷ Under the Commission's rules, commercial

⁶ See *Eighth Dormant Proceedings Termination Public Notice*.

⁷ See *id.* at App. A.

⁸ Termination of Dormant Proceedings, 85 FR 40287 (Jul. 6, 2020).

⁹ *Id.*

¹⁰ *Termination of Certain Proceedings as Dormant*, CG Docket No. 20-1138, Order, 35 FCC Rcd 10498 (2020) (*Eighth Dormant Proceedings Termination Order*).

¹¹ Termination of Dormant Proceedings, 85 FR 68067 (Oct. 27, 2020).

¹² Revised Petition for Reconsideration of KSQA, LLC, CG Docket No. 20-158, MB Docket No. 15-11 (filed Nov. 19, 2020) (Petition).

¹³ Opposition of DIRECTV, LLC, CG Docket No. 20-158, MB Docket No. 15-11 (filed Dec. 3, 2020).

¹⁴ Reply to Opposition, CG Docket No. 20-158, MB Docket No. 15-11 (filed Dec. 15, 2020).

¹⁵ 47 CFR § 1.429(a).

¹⁶ 47 CFR § 1.429(l). While KSQA filed the Petition under 47 CFR § 1.429, in an abundance of caution we dismiss the Petition under both 47 CFR § 1.429(l) (applicable to rulemakings) and 47 CFR § 1.106(p) (applicable to adjudications). Under either rule, dismissal is warranted when a petition plainly does not warrant consideration. See *Amendment of Certain of the Commission's Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Organization*, Report and Order, 26 FCC Rcd 1594, 1606, para. 27 (2011) (delegating to the relevant bureaus or offices the authority to dismiss or deny petitions for reconsideration of staff level decisions consistent with Sections 1.106(p) and 1.429(l)).

¹⁷ See *Cable Television Company of Greater San Juan*, 15 FCC Rcd 4404, para. 9 (CSB, 2000); *Minority Television Project, Inc.*, Order on Reconsideration, DA 20-1313, para. 7 (MB, 2020).

television stations are required to make a new carriage election every three years.¹⁸ Carriage elections and change notices for the current election cycle were due by October 1, 2020 and required the use of the new election procedures adopted in the *Electronic Delivery Report and Order*.¹⁹ Any claim KSQA has with respect to the current election cycle (2021-23) will require the filing of a new complaint pertaining to that cycle. We therefore agree with DIRECTV that KSQA's underlying complaint in MB Docket No. 15-11 is moot.²⁰

8. Because we find the underlying complaint at issue in KSQA's Petition to be moot, we do not reach the merits of the underlying complaint, nor do we decide other issues raised in the Petition.²¹ For instance, we do not resolve KSQA's argument that it did not receive adequate notice that the relevant docket would be terminated as dormant. Even if that argument were meritorious, it would have no bearing on our independent determination that the underlying complaint was no longer a live controversy when the docket was terminated, and hence termination of the docket was appropriate, and the Petition should be dismissed under section 1.429 or 1.106 for that reason. We disagree with KSQA's argument that MB Docket No. 15-11 must remain open because there is an ongoing dispute.²² While KSQA may believe that the underlying dispute raised in its complaint is ongoing,²³ the expiration of the 2015-2017 election cycle means that the complaint is nevertheless moot.

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED that, pursuant to the authority contained in Sections 4(i), 4(j) and 405 of the Communications Act, 47 U.S.C. Sections 154(i), 154(j), and 405, and sections 1.106 and 1.429 of the Commission's rules, 47 CFR §§ 1.106; 1.429, and authority delegated by sections 0.141 and 0.361 of the Commission's rules, 47 CFR §§ 0.141, 0.361, the Petition for Reconsideration filed by KSQA, LLC on November 19, 2020, IS DISMISSED.

10. IT IS FURTHER ORDERED that this Order is EFFECTIVE UPON RELEASE.

FEDERAL COMMUNICATIONS COMMISSION

G. Patrick Webre,
Chief, Consumer & Governmental Affairs Bureau

Michelle M. Carey,
Chief, Media Bureau

¹⁸ 47 CFR § 76.66(c)(2).

¹⁹ See *Electronic Delivery of MVPD Communications; Modernization of Media Regulation Initiative*, MB Docket Nos. 17-105 and 17-317, Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 5922 (2019).

²⁰ See Opposition of DIRECTV, LLC at 1 ("There has been no activity in this docket since 2015 and KSQA's mandatory carriage complaint against DIRECTV became moot on December 31, 2017—the end of the election cycle at issue in the Complaint.")

²¹ See Petition at 2-3.

²² See KSQA Reply to Opposition at 2.

²³ See KSQA Reply to Opposition at 2-3.